



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable George H. Sheppard
Comptroller of Public Accounts
Austin, Texas

*Superseded By Art. 29-
U.C.S.*

Dear Sir:

Opinion No. 0-6484
Re: Salaries to be paid the
County Attorney of Navarro
County under the facts
stated.

Your letter of March 20, 1945, requesting the opinion of this Department, regarding the salary of the County Attorney of Navarro County is as follows:

"In 1935 Navarro County had a population of 60,507, which would authorize the County Attorney of Navarro County to draw a salary of \$4,750 under Articles 3883 and 3891.

"In 1940 the population of Navarro County was 51,308, which, under the above mentioned Articles, would pay the County Attorney \$4,250.

"Section 13 of Article 3912c provides in part:

"Each of said officers shall be paid in money an annual salary in twelve equal installments of not less than the total sum earned as compensation by him in his official capacity for the fiscal year 1935, and not more than the maximum amount allowed such officer under laws existing on August 24, 1935."

"It is the contention of the County Attorney of Navarro County that this section of the statute authorizes the Commissioners' Court to pay him a salary

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of \$4,750 per year, which was the amount the County Attorney of Navarro County could draw for the year 1935.

"I shall thank you to advise this department the correct salary the County Attorney of Navarro County is authorized to receive at this time, and the correct amount upon which to base the obligations of the State."

Under the 1930 Federal Census, Navarro County came under the provisions included in the 60,001 to the 100,000 population bracket of Article 3883 and Article 3891, Vernon's Annotated Civil Statutes. Under the provisions of these Articles the maximum salaries for county officials of Navarro County were \$4,750.00. It will be noted that Section 13 of Article 3912e, specifically provides that the Commissioners' Courts in counties having a population of 20,000 inhabitants or more and less than 190,000 inhabitants, according to the last preceding Federal Census is authorized and it shall be its duty to fix the salaries of all the officers named therein at a sum not less than the total sum earned as compensation by such officer in his official capacity for the fiscal year 1935, and not more than the maximum amount allowed such officer under laws existing on August 24, 1935. In 1936, the compensation or salaries of officers named in Section 13 of Article 3912e were fixed and based upon laws existing on August 24, 1935, with reference to the maximum amount allowed such officers and said Article provides that the minimum should not be less than the total sum earned as compensation by such officers under their official capacities for the fiscal year 1935. According to the 1930 Federal Census, Navarro County came within the population brackets applying to counties having a population of 60,001 to 100,000 inhabitants. We are of the opinion that the salaries for the officers named in Section 13, Article 3912e, in counties having a population of 20,000 inhabitants or more, and less than 190,000 inhabitants according to the last Federal Census should be fixed for the year 1945, as provided by law existing on August 24, 1935, regardless of the population of such counties as shown by the 1940 Federal Census. In support of the foregoing statement, we direct your attention to the cases of Macogdoches County v. Jenkins, 140 S. W. (2d) 901 and Macogdoches

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County v. Weinder, 140 S. W. (2d) 972 and our Opinions Nos. 0-2560 and 0-2582, copies of such opinions are enclosed for your convenience.

In answer to your inquiry you are respectfully advised that it is the opinion of this Department that the Commissioners' Court of Navarro County is legally authorized to fix the maximum salary of the County Attorney of said County for the year of 1945 at \$4,750.00. The actual salary of the County Attorney who performs the duties of a district attorney, is the correct amount upon which the obligation of the State should be based under Subdivision (a), Section 15 of Article 3912e, V. A. C. S. Stated differently the Commissioners' Court of Navarro County is legally authorized to fix the annual salary of each of the county officials in an amount not less than the total sum earned as compensation by him in his official capacity for the fiscal year 1935, and not more than the maximum amount allowed such officer under laws existing August 24, 1935, regardless of the population of such County as determined by the 1940 Federal Census.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Ardell Williams

Ardell Williams
Assistant

APPROVED MAR 23 1945

Carl F. Ashley
FIRST ASSISTANT
ATTORNEY GENERAL

AW:fb

APPROVED
OPINION
COMMITTEE
BY *Blw*
CHAIRMAN